

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF OREGON**

EMMANUEL ADEYINKA,

Plaintiff,

v.

WALMART, *et al.*,

Defendants.

Case No. 3:23-cv-393-JR

ORDER

Michael H. Simon, District Judge.

United States Magistrate Judge Jolie A. Russo issued Findings and Recommendation in this case on April 11, 2023. Judge Russo ordered that Plaintiff’s application to proceed *in forma pauperis* be denied and that he pay the \$402 filing fee in this case, and recommended that this Court dismiss Plaintiff’s Amended Complaint without leave to amend for failure to state a claim and as frivolous as that term is used under 28 U.S.C. § 1915. Judge Russo previously had dismissed Plaintiff’s original complaint with leave to amend.

Under the Federal Magistrates Act (Act), the Court may “accept, reject, or modify, in whole or in part, the findings or recommendations made by the magistrate.” 28 U.S.C. § 636(b)(1). If a party objects to a magistrate judge’s findings and recommendations, “the court

shall make a de novo determination of those portions of the report or specified proposed findings or recommendations to which objection is made.” *Id.*; Fed. R. Civ. P. 72(b)(3).

For those portions of a magistrate judge’s findings and recommendations to which neither party has objected, the Act does not prescribe any standard of review. *See Thomas v. Arn*, 474 U.S. 140, 152 (1985) (“There is no indication that Congress, in enacting [the Act], intended to require a district judge to review a magistrate’s report to which no objections are filed.”); *United States v. Reyna-Tapia*, 328 F.3d 1114, 1121 (9th Cir. 2003) (en banc) (holding that the court must review *de novo* magistrate judge’s findings and recommendations if objection is made, “but not otherwise”). Although in the absence of objections no review is required, the Magistrates Act “does not preclude further review by the district judge[] *sua sponte* . . . under a *de novo* or any other standard.” *Thomas*, 474 U.S. at 154. Indeed, the Advisory Committee Notes to Fed. R. Civ. P. 72(b) recommend that “[w]hen no timely objection is filed,” the Court review the magistrate judge’s recommendations for “clear error on the face of the record.”

Plaintiff timely filed an objection. Plaintiff’s objection, however, does not identify any specific error in the Findings and Recommendation. Plaintiff’s objections are difficult to understand, citing the Second, Fourth, and Fourteenth Amendments to the U.S. Constitution, without explaining how they are relevant to his claims against private companies that appear to be based on purported issues with a “driver app” and his mobile phone. Plaintiff also explains that he has filed multiple complaints with the Equal Opportunity Employment Commission, which have been closed, and that those are the basis of his claims before this Court, but that assertion does not provide a valid objection to the Findings and Recommendation or a plausible factual allegation against Defendants.

The Court ADOPTS Judge Russo's Findings and Recommendation, ECF 7. The Court DISMISSES Plaintiff's Amended Complaint, ECF 5, without leave to amend. The Court reiterates that, as ordered by Judge Russo, Plaintiff's Application to Proceed *in forma pauperis*, ECF 6, has been DENIED. Plaintiff must pay the filing fee of \$402.00, as ordered by Judge Russo.

IT IS SO ORDERED.

DATED this 20th day of April, 2023.

/s/ Michael H. Simon
Michael H. Simon
United States District Judge